

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1073

Introduced by Senator Monning

(Principal coauthor: Assembly Member Mark Stone)

(Coauthors: Assembly Members Atkins, Baker, Brown, Chang, Dahle, Irwin, Kim, Lackey, Linder, Maienschein, Mathis, Mullin, Steinorth, and Wilk)

February 16, 2016

~~An act to amend Section 105254 of, and to add Section 105250.5 to, the Health and Safety Code, relating to public health, and making an appropriation therefor. An act to amend Section 17052 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1073, as amended, Monning. ~~Lead-based paint. Personal income taxes: earned income credit: credit percentage: phaseout percentage.~~

The Personal Income Tax Law allows various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws. Federal income tax laws allow a refundable earned income tax credit

for certain low-income individuals who have earned income from specified sources and who meet certain other requirements.

The Personal Income Tax Law, for taxable years beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income credit against personal income tax, and a payment from the Tax Relief and Refund Account for an allowable credit in excess of tax liability, to an eligible individual in an amount determined in accordance with federal law as applicable for federal income tax purposes for the taxable year, multiplied by the earned income tax credit adjustment factor, as specified. Existing law creates the Tax Relief and Refund Account, which is continuously appropriated, and provides that required payments to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including amounts allowable as an earned income credit in excess of any tax liability. The Personal Income Tax Law provides that the amount of the credit is calculated as a percentage of the eligible individual's earned income and is phased out above a specified amount as income increases. Under existing law, the credit percentage and the phase out percentage is based on the number of qualifying children of the eligible individual. Existing law provides, in modified conformity with federal income tax law, in the case of an eligible individual with 3 or more qualifying children, for taxable years beginning before January 1, 2016, the credit percentage and phaseout percentage is 45%, and for taxable years beginning after January 1, 2016, the credit percentage and phaseout percentage is the same as for an eligible individual with 2 or more children, which is 40%.

This bill, for taxable years beginning on and after January 1, 2016, would instead provide that, in the case of an eligible individual with 3 or more qualifying children, the credit percentage and phaseout percentage is 45%, thereby increasing the credit percentage and the phaseout percentage for those eligible individuals for taxable years beginning on and after January 1, 2016.

By increasing the allowable credit amount, this bill would authorize new payments from the Tax Relief and Refund Account for additional amounts in excess of personal income tax liabilities, thereby making an appropriation.

~~Existing law requires the State Department of Public Health to implement and administer a residential lead-based paint hazard reduction program, as specified, including adopting regulations regarding accreditation of providers of health and safety training to employees~~

who engage in or supervise lead-related construction work, as defined, and certification of employees who have successfully completed that training. Existing law requires the department to adopt regulations to establish and impose fees for those accreditations and certifications and for licensing entities engaged in lead-related occupations, as specified. Existing law requires those fees to be deposited into the Lead-Related Construction Fund, as specified.

~~This bill would require the department to update its regulations governing lead-related construction work, including training and certification for workers and accreditation for trainers in lead-safe work practices, to comply with existing state regulations and the United States Environmental Protection Agency's Lead Renovation, Repair, and Painting Rule, as specified. The bill would require the adoption of those regulations to include fee provisions for those certifications and accreditations. The bill would appropriate \$500,000 from the General Fund to the department for the purposes of implementation until fees can be collected under these provisions, to be repaid upon determination by the Department of Finance that sufficient moneys are available in the Lead-Related Construction Fund to repay that amount. The bill would require the regulations adopted pursuant to these provisions to be adopted as emergency regulations, as specified.~~

~~Existing law requires certain persons engaged in lead construction work to have a certificate under these provisions. A violation of that provision is a crime.~~

~~This bill would further require firms, as defined, and at least one person onsite and employed by a firm, doing renovation, repair, or painting work that will disturb lead-based paint or presumed lead-based paint, as defined, to have a certificate under these provisions. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes-no.

The people of the State of California do enact as follows:

SECTION 1. Section 17052 of the Revenue and Taxation Code is amended to read:

17052. (a) (1) For each taxable year beginning on or after January 1, 2015, there shall be allowed against the “net tax,” as defined by Section 17039, an earned income tax credit in an amount equal to an amount determined in accordance with Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal income tax purposes for the taxable year, except as otherwise provided in this section.

(2) (A) The amount of the credit determined under Section 32 of the Internal Revenue Code, relating to earned income, as modified by this section, shall be multiplied by the earned income tax credit adjustment factor for the taxable year.

(B) Unless otherwise specified in the annual Budget Act, the earned income tax credit adjustment factor for a taxable year beginning on or after January 1, 2015, shall be 0 percent.

(C) The earned income tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit.

(b) (1) In lieu of the table prescribed in Section 32(b)(1) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%
1 qualifying child	34%	34%
2 or more qualifying children	40%	40%
3 or more qualifying children	45%	45%

(2) (A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
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1	No qualifying children	\$3,290	\$3,290
2	1 qualifying child	\$4,940	\$4,940
3	2 or more qualifying children	\$6,935	\$6,935

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5 (B) Section 32(b)(2)(B) of the Internal Revenue Code, relating
6 to joint returns, shall not apply.

7 ~~(3) Section 32(b)(3)(A) of the Internal Revenue Code, relating~~
8 ~~to increased percentage for three or more qualifying children, is~~
9 ~~modified by substituting “the credit percentage and phaseout~~
10 ~~percentage is 45 percent” for “the credit percentage is 45 percent.”~~

11 (c) (1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code
12 is modified by substituting “this state” for “the United States.”

13 (2) Section 32(c)(2)(A) of the Internal Revenue Code is modified
14 as follows:

15 (A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is
16 modified by deleting “plus” and inserting in lieu thereof the
17 following: “and only if such amounts are subject to withholding
18 pursuant to Division 6 (commencing with Section 13000) of the
19 Unemployment Insurance Code.”

20 (B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall
21 not apply.

22 (3) Section 32(c)(3)(C) of the Internal Revenue Code, relating
23 to place of abode, is modified by substituting “this state” for “the
24 United States.”

25 (d) Section 32(i)(1) of the Internal Revenue Code is modified
26 by substituting “\$3,400” for “\$2,200.”

27 (e) In lieu of Section 32(j) of the Internal Revenue Code, relating
28 to inflation adjustments, for taxable years beginning on or after
29 January 1, 2016, the amounts specified in paragraph (2) of
30 subdivision (b) and in subdivision (d) shall be recomputed annually
31 in the same manner as the recomputation of income tax brackets
32 under subdivision (h) of Section 17041.

33 (f) If the amount allowable as a credit under this section exceeds
34 the tax liability computed under this part for the taxable year, the
35 excess shall be credited against other amounts due, if any, and the
36 balance, if any, shall be paid from the Tax Relief and Refund
37 Account and refunded to the taxpayer.

38 (g) The Franchise Tax Board may prescribe rules, guidelines,
39 or procedures necessary or appropriate to carry out the purposes
40 of this section. Chapter 3.5 (commencing with Section 11340) of

1 Part 1 of Division 3 of Title 2 of the Government Code shall not
2 apply to any rule, guideline, or procedure prescribed by the
3 Franchise Tax Board pursuant to this section.

4 (h) Notwithstanding any other law, amounts refunded pursuant
5 to this section shall be treated in the same manner as the federal
6 earned income refund for the purpose of determining eligibility to
7 receive benefits under Division 9 (commencing with Section
8 10000) of the Welfare and Institutions Code or amounts of those
9 benefits.

10 (i) (1) For the purpose of implementing the credit allowed by
11 this section for the 2015 taxable year, the Franchise Tax Board
12 shall be exempt from the following:

13 (A) Special Project Report requirements under State
14 Administrative Manual Sections 4819.36, 4945, and 4945.2.

15 (B) Special Project Report requirements under Statewide
16 Information Management Manual Section 30.

17 (C) Section 11.00 of the 2015 Budget Act.

18 (D) Sections 12101, 12101.5, 12102, and 12102.1 of the Public
19 Contract Code.

20 (2) The Franchise Tax Board shall formally incorporate the
21 scope, costs, and schedule changes associated with the
22 implementation of the credit allowed by this section in its next
23 anticipated Special Project Report for its Enterprise Data to
24 Revenue Project.

25 (j) (1) In accordance with Section 41 of the Revenue and
26 Taxation Code, the purpose of the California Earned Income Tax
27 Credit is to reduce poverty among California's poorest working
28 families and individuals. To measure whether the credit achieves
29 its intended purpose, the Franchise Tax Board shall annually
30 prepare a written report on the following:

31 (A) The number of tax returns claiming the credit.

32 (B) The number of individuals represented on tax returns
33 claiming the credit.

34 (C) The average credit amount on tax returns claiming the credit.

35 (D) The distribution of credits by number of dependents and
36 income ranges. The income ranges shall encompass the phase-in
37 and phaseout ranges of the credit.

38 (E) Using data from tax returns claiming the credit, including
39 an estimate of the federal tax credit determined under Section 32
40 of the Internal Revenue Code, an estimate of the number of families

1 who are lifted out of deep poverty by the credit and an estimate of
2 the number of families who are lifted out of deep poverty by the
3 combination of the credit and the federal tax credit. For the
4 purposes of this subdivision, a family is in “deep poverty” if the
5 income of the family is less than 50 percent of the federal poverty
6 threshold.

7 (2) The Franchise Tax Board shall provide the written report to
8 the Senate Committee on Budget and Fiscal Review, the Assembly
9 Committee on Budget, the Senate and Assembly Committees on
10 Appropriations, the Senate Committee on Governance and Finance,
11 the Assembly ~~Committees~~ *Committee* on Revenue and Taxation,
12 and the Senate and Assembly Committees on Human Services.

13 (k) The tax credit allowed by this section shall be known as the
14 California Earned Income Tax Credit.

15 (l) *The amendments made to this section by the act adding this*
16 *subdivision shall apply to taxable years beginning on or after*
17 *January 1, 2016.*

18 ~~SECTION 1. Section 105250.5 is added to the Health and~~
19 ~~Safety Code, to read:~~

20 ~~105250.5. (a) By July 1, 2018, the department shall review~~
21 ~~and amend its regulations governing lead-related construction~~
22 ~~work, including training and certification for workers and~~
23 ~~accreditation for trainers in lead-safe work practices to comply~~
24 ~~with Chapter 8 (commencing with Section 35001) of Division 1~~
25 ~~of Title 17 of the California Code of Regulations adopted by the~~
26 ~~department pursuant to Sections 105250 and 124160 and the United~~
27 ~~States Environmental Protection Agency’s Lead Renovation,~~
28 ~~Repair, and Painting Rule (40 C.F.R. 745).~~

29 ~~(b) The amended regulations adopted pursuant to subdivision~~
30 ~~(a) shall include, but not be limited to, a regulation requiring a~~
31 ~~copy of the worker and firm certification to be provided before~~
32 ~~the start of the job to the prime contractor or other employers on~~
33 ~~the site and to be posted on the jobsite beside the Cal-OSHA~~
34 ~~Lead-Work Pre-Job Notification required by Section 1532.1(p) of~~
35 ~~Title 8 of the California Code of Regulations.~~

36 ~~(c) Consistent with Section 105250, the department shall also~~
37 ~~adopt regulations establishing fees for the certifications or~~
38 ~~accreditations established pursuant to this section. The fees~~
39 ~~imposed under this section shall be established at levels not~~
40 ~~exceeding an amount sufficient to cover the costs of administering~~

1 and enforcing the standards and regulations adopted under this
2 section. The fees established pursuant to this section shall be
3 deposited into the Lead-Related Construction Fund pursuant to
4 Section 105250.

5 (d) Five hundred thousand dollars (\$500,000) is hereby
6 appropriated from the General Fund to the department, to be used
7 to develop, initiate, and administer this section until adequate fees
8 can be collected for the ongoing administration of this section.
9 These funds shall be repaid to the General Fund upon determination
10 by the Department of Finance that sufficient moneys are available
11 in the Lead-Related Construction Fund to repay that amount. No
12 interest shall be paid by the Lead-Related Construction Fund at
13 the time of repayment.

14 (e) (1) Notwithstanding the rulemaking provisions of the
15 Administrative Procedure Act (Chapter 3.5 (commencing with
16 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
17 Code), the department may implement and administer this section
18 through all-county letters or similar instructions from the
19 department until regulations are adopted. The department shall
20 adopt emergency regulations implementing these provisions no
21 later than July 1, 2017. The department may readopt any emergency
22 regulation authorized by this section that is the same as or
23 substantially equivalent to an emergency regulation previously
24 adopted under this section.

25 (2) The initial adoption of emergency regulations pursuant to
26 this section and one readoption of emergency regulations shall be
27 deemed an emergency and necessary for the immediate
28 preservation of the public peace, health, safety, or general welfare.
29 Initial emergency regulations and the one readoption of emergency
30 regulations authorized by this section shall be exempt from review
31 by the Office of Administrative Law. The initial emergency
32 regulations and the one readoption of emergency regulations
33 authorized by this section shall be submitted to the Office of
34 Administrative Law for filing with the Secretary of State, and each
35 shall remain in effect for no more than 180 days, by which time
36 final regulations may be adopted.

37 SEC. 2. Section 105254 of the Health and Safety Code is
38 amended to read:

39 105254. (a) The following persons and firms engaged in the
40 following types of lead construction work shall have a certificate:

1 ~~(1) Persons who receive pay for doing lead hazard evaluations,~~
2 ~~including, but not limited to, lead inspections, lead risk~~
3 ~~assessments, or lead clearance inspections, in residential or public~~
4 ~~buildings.~~

5 ~~(2) Persons preparing or designing plans for the abatement of~~
6 ~~lead-based paint or lead hazards from residential or public~~
7 ~~buildings.~~

8 ~~(3) Persons doing any work designed to reduce or eliminate~~
9 ~~lead hazards on a permanent basis (to last 20 years or more) from~~
10 ~~residential or public buildings.~~

11 ~~(4) Persons inspecting for lead or doing lead abatement activities~~
12 ~~in a public elementary school, preschool, or day care center.~~

13 ~~(5) Persons doing lead-related construction work in a residential~~
14 ~~or public building that will expose a person to airborne lead at or~~
15 ~~above the eight-hour permissible exposure limit of 50 micrograms~~
16 ~~per cubic meter.~~

17 ~~(6) Firms, as defined by Section 745.83 of Title 40 of the Code~~
18 ~~of Federal Regulations, and at least one person onsite and employed~~
19 ~~by a firm, doing renovation, repair, or painting work in a residential~~
20 ~~or public building that will disturb lead-based paint, as defined in~~
21 ~~Section 35033 of Title 17 of the California Code of Regulations,~~
22 ~~or presumed lead-based paint, as defined in Section 35043 of Title~~
23 ~~17 of the California Code of Regulations, which regulations were~~
24 ~~adopted by the State Department of Public Health pursuant to~~
25 ~~Sections 105250 and 124160.~~

26 ~~(b) Persons performing routine maintenance and repairs in~~
27 ~~housing are not required to have a certificate if they are not~~
28 ~~performing any of the activities listed under subdivision (a).~~

29 ~~(c) The department may adopt regulations to modify certification~~
30 ~~requirements for persons engaged in lead construction work based~~
31 ~~on changes to state or federal law, or programmatic need.~~

32 ~~(d) The department or any local enforcement agency may,~~
33 ~~consistent with Section 17972, enter, inspect, and photograph any~~
34 ~~premises where abatement or a lead hazard evaluation is being~~
35 ~~conducted or has been ordered, enter the place of business of any~~
36 ~~person who conducts abatement or lead hazard evaluations, and~~
37 ~~inspect and copy any business record of any person who conducts~~
38 ~~abatement or lead hazard evaluations to determine whether the~~
39 ~~person is complying with this section.~~

1 ~~(e) (1) Except as provided in paragraph (2), a violation of this~~
2 ~~section shall be punishable by imprisonment for not more than six~~
3 ~~months in the county jail, a fine of not more than one thousand~~
4 ~~dollars (\$1,000), or by both that imprisonment and fine.~~

5 ~~(2) A violation of paragraph (6) of subdivision (a) shall be~~
6 ~~punishable by imprisonment for not more than six months in the~~
7 ~~county jail or a fine of not more than thirty-seven thousand five~~
8 ~~hundred dollars (\$37,500), or by both that imprisonment and fine.~~

9 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
10 ~~Section 6 of Article XIII B of the California Constitution because~~
11 ~~the only costs that may be incurred by a local agency or school~~
12 ~~district will be incurred because this act creates a new crime or~~
13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
14 ~~for a crime or infraction, within the meaning of Section 17556 of~~
15 ~~the Government Code, or changes the definition of a crime within~~
16 ~~the meaning of Section 6 of Article XIII B of the California~~
17 ~~Constitution.~~